

However, Applicants would respectfully point out that the claims in both Groups are directed to fabric wrinkle control compositions and that the compositions of Group I and Group II are expected to behave similarly. The pH range recited in claim 43 is described in the specification on page 26 as a preferred range for providing amine malodor control. Further, it should be noted that there are claims directed to compositions having lower pH levels in Group I as well. In particular, please note that claim 56 from Group I recites that the pH of the claimed composition may be as low as about 3.5. In sum, Applicants maintain that the separate utility identified in the Action is not a utility that is exclusive to the Group II compositions but is a utility that would be common to the Group I compositions as well.

Given that Groups I and II do not have separate utility as described in M.P.E.P. §806.05(c), Applicants respectfully request that the restriction between these two groups of claims be withdrawn and that both groups of claims be examined in the present application. If the restriction requirement is to be maintained, Applicants elect Group I for examination in the present application.

#### **Election of Species**

The Action alleges that claim 1 is generic to a plurality of disclosed patentably distinct species, namely, that component (A) is recited as being selected from the group consisting of fiber lubricants, shape retention polymers, lithium salts and mixtures thereof. Applicants have been instructed to elect one of these species. If the election requirement is to be maintained, Applicants hereby elect shape retention polymers.

Applicants note that M.P.E.P. §803.02 states that:

If the members of a Markush group are sufficiently few in number...that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions.


Given that there are only three members in the Markush Group of Component (A), it is not clear to Applicants that the examination of all of the group members would impose a "serious" burden as is referred to in M.P.E.P. §803.02. All three species represent wrinkle control agents for application to fabric and no suggestion has been made that the examination of all members of the Markush Group will impose such a burden. Therefore, Applicants respectfully request reconsideration of this election requirement and its withdrawal.

#### **CONCLUSION**

Regarding the restriction between Groups I and II, Applicants hereby elect Group I with traverse. With respect to the election of species within Claim 1, Applicants hereby elect shape retention polymers with traverse. Please note that if the elected species is found to be

allowable, applicants request that claim 1 be examined with respect to fiber lubricants, lithium salts, and mixtures under 37 C.F.R §1.141.

Respectfully submitted,

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